



This action is further designated as Cause No. DC-12-07015, together with all documents filed in the state court action, are attached hereto. The Index of Documents Filed is attached hereto as EXHIBIT A, the district court's most recent docket printout is attached hereto as EXHIBIT B and the documents attached hereto as EXHIBIT C constitute all of the contents of the state court file pursuant to Local Rule 81.1.

2. Defendants have not been served and Defendants contest that service as pled is correct and that either the state court or this Court have jurisdiction over them. Regardless, this Notice of Removal is timely filed under 28 § 1446(b).

3. The action filed by Plaintiff Michael Nuttall p/k/a Michael Floreale d/b/a When in Rome is a civil action in which Plaintiff asserts claims against Defendants for trademark infringement under the Lanham Act, 15 U.S.C. § 1114, unfair competition under 15 U.S.C. § 1125, dilution under 15 U.S.C. § 1125 and "false representation in commerce" in violation of 15 U.S.C. § 1125.

## **II. GROUNDS FOR REMOVAL**

4. Removal is proper because Plaintiff's Petition presents a federal question. See 28 U.S.C. § 1441(b). Specifically, Plaintiff's claims arise in part under the federal Lanham Act.

5. Defendants' Notice of Removal is timely filed under 28 U.S.C. § 1446. Defendants object to venue but subject thereto, venue is proper in this Court under 28 U.S.C. § 1441(a) because the Northern District of Texas encompasses the county in which the state court is located.

## **III. NOTICE OF FILING NOTICE OF REMOVAL**

6. Upon filing of this Notice of Removal, written notice of the filing is being forwarded to all parties of record in accordance with 28 U.S.C. § 1446(d).

7. Notice of Filing Notice of Removal to the United States District Court for the Northern

District of Texas, Dallas Division will also be sent to the Clerk for the 44th Judicial District Court, Dallas County, Texas, upon receipt of proof of filing of these removal documents, in accordance with 28 U.S.C. § 1446(d).

WHEREFORE, PREMISES CONSIDERED, Defendants, in conformance with the requirements set forth in 28 U.S.C. § 1446 hereby removes this action for trial from the 44th Judicial District Court of Dallas County, Texas, to this Court.

Respectfully submitted,

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/s/ Elizann Carroll  
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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3<sup>rd</sup> day of July, 2012, I forwarded a true and correct copy of the foregoing document to counsel for Plaintiff pursuant to the Federal Rules of Civil Procedure.

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/s/ Elizann Carroll